



June 17, 2016

Sent Via Facsimile (916) 227-6282

Mulissa Smith, Contracts Award Branch Chief
Department of Transportation
Division of Engineering Services
MS 43 Office Engineer
1727 - 30th St
P.O. Box 168041
Sacramento, CA 95816-8041

Re: Caltrans Contract No. 07-2849U4

Bid Date June 1, 2016 – BID PROTEST Beador Construction Company, Inc.

Dear Mr. McMillan

SEMA Construction, Inc. (SEMA) was the third monetary bidder on the above referenced contract. As of today, SEMA has been determined by Caltrans to be the second monetary bidder on the above referenced project, with the apparent rejection of United Engineering's bid. Please consider this letter as a formal protest of the bid submitted by Beador Construction Company, Inc. (Beador) for Contract 07-2849U4. Beador failed to submit a bidder's security with their bid and as a material term of the bid documents must be found non-responsive.

As known by documents provided by Beador themselves (exhibit 'A'), their bid bond was not submitted with their bid, nor was their bid bond with their bid at the time of Bid Opening on June 1, 2016 at 2:00PM. Caltrans received and time stamped receipt of Beador's bid bond on June 2, 2016 at 11:25, as posted in Beador's bid book by Caltrans (exhibit 'B')

Per the Notice to Bidders (exhibit 'C') *"The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. **Bids received after this time will not be accepted** (emphasis added). For more information refer to the Electronic Bidding Guide at the Bidders' Exchange web site."* Further, *"Submit your bid **with** (emphasis added) bidder's security equal to at least 10 percent of the bid"* Beador failed to submit a bidder's security equal to at least 10 percent of its bid **with** its bid.

**Heavy and Highway
General Contractors**

6 Orchard
Suite 150

Lake Forest
California
92630

(949) 470-0500
Fax: (949) 829-0100



The requirement to submit a bidder's security with its bid is a material term of the bid documents, failure to materially comply with the bid documents and submit a complete bid package with all required documents must render Beador's bid non-responsive. Further, Beador's bid was without a bidder's security at the time of bid opening and should not have been accepted or read at the time to open bids.

Beador and Beador alone had the responsibility to make sure its bidder's security was submitted and accepted by Caltrans on or before the bid opening date and time. Per the Electronic Bidding Guide, page 7 (exhibit 'D') *"Bid security must be received by Office Engineer prior to the specified bid opening date and time. Either submit an electronic bid bond with your bid, or submit a paper bid bond to Office Engineer prior to the specified bid opening date and time."* Beador failed to submit a bidder's security with their bid at the date and time of the bid opening, a material term of the bid documents. Then they attempt to cover up their own irresponsibility by blaming Caltrans. Beador had days if not weeks to submit their bidder's security and failed at timely submitting the mandatory documents to Caltrans as specified.

Any contactor's irresponsible failure to timely submit a bidder's security with their bid and have said bid accepted creates a potential for wrongdoing and an un-fair advantage. A bid opened and read without a bidder's security could and would allow bidder's to submit and withdraw bids without consequence. If contractors are allowed to cure material document deficiencies following bid submissions it would create an environment ripe for potential wrong doing and corruption.

As the lowest responsive responsible bidder SEMA Construction, Inc. stands ready to perform the contract.

For any questions, please call (949) 470-0500 at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "Joshua P. Clyne", written over a horizontal line.

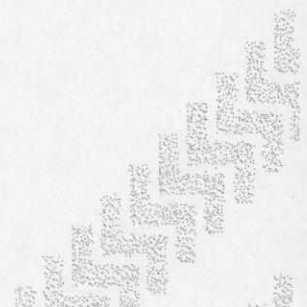
Joshua P. Clyne
Senior Vice President

**Heavy and Highway
General Contractors**

6 Orchard
Suite 150

Lake Forest
California
92630

(949) 470-0500
Fax: (949) 829-0100



06/06/2016 MON 8:54 FAX

001/007



**Beador
Construction
Company, Inc.**

Exhibit 'A'

June 6, 2016

Department of Transportation
Division of Engineering Services
Office Engineer
1727 30th Street, MS-43
P.O. Box 168041
Sacramento, CA 95816-8041

Attention: Mrs. Hil Y. Sewell
Office Chief

RE: Bid Protest - Non-responsive finding
CalTrans Contract 07-2849u4

Mrs. Sewell:

Beador Construction Company Inc. hereby protests the finding of our above mention contract bid proposal non-responsive. Presumably, the Department found our bid non-responsive due to the bid bond not being at the Department's office prior to bid time. The attached correspondence and delivery receipts prove otherwise. The Department received our bid bond on bid day (June 1st) at 9:49 AM (See exhibit 1 & 1A attached). L. Parra signed for the overnight package (signature attached). The Department then apparently put my package (containing the bid bond) in the outgoing GSO and it was sent out that day and redelivered to your office the next day and signed again by L. Parra at 9:44 AM (Exhibit 2 & 2A). The Department can verify it was the same package as the tracking number is the same for both deliveries (532090800). You cannot have the same tracking number for two separate deliveries thus verifying it was the same package. An explanation email is also attached from GSO explain what had happened and verifying the Department's error (Exhibit 3).

We request the Department immediately reinstate our bid proposal due to the above mentioned Department's error.

Should you have questions or comments, please feel free to call.

Sincerely,

Beador Construction Company, Inc.
David A. Beador
David A. Beador
President

REF: 07-2849u4 - Bid Protest

11

EXHIBIT 1

David A. Bunker

From: DavidBunker@usps.com on behalf of USC (DavidBunker@usps.com)
Sent: Wednesday, June 01, 2016 8:58 AM
To: DavidBunker@usps.com
Subject: USC National Security Information - 512000000

DELIVERY NOTIFICATION

Tracking Number: 512000000

Ship Date: 5/31/2016

Ship From: David Bunker, SENIOR CONSTRUCTION COMPANY, INC.

Ship To: Bidders Exchange, P.O. Box, CALIFORNIA DEPARTMENT OF TRANSPORTATION
1717 Main Street, Bidders Exchange AS 20
Sacramento, CA 95811

Delivered At: 05/31/2016 8:00 AM

Signed By: J. Papp

USPS COMMENTS:

Please use the following link to track the status of this shipment online:

<https://www.usps.com/track/track?trackId=512000000&trackType=USPS>

Please do not reply to this message. For general inquiries, contact USPS customer service at 1-800-952-5511.

Print us at: <https://www.usps.com>

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the intended recipient of this email, you are notified that disclosing, copying, distributing this message is strictly prohibited. If you have received this email in error, please delete it immediately.

Package Details

Page 1 of 1

EXHIBIT 1A

GSO

GSO Home Contact Us 1-800-322-8555

Shipping Tracking Services Solutions Resources Support About Us

Start Shipping Today

Track Shipment

Delivery Rates & Times

From Zip Code:
To Zip Code:

Drop Box Locator

Zip Code:

View Transit Maps

Zip Code:



Shipment Tracking Results

Shipment Details

Ship To Name: CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Ship To Location: Sacramento, CALIFORNIA
 Delivery Status: DELIVERED Tracking Number: 532090800
 Ship Date: 5/31/2016 Reference:
 Delivery Date: 6/12/2016 Service: NPS
 Delivery Time: 9:49 AM Signed For by: J. Parra View Signature

Transit Notes

Date/Time	Note
05/31/16 09:57 PM	ARRIVAL SCAN - DELIVERY SCHED FOR 06/01/2016
06/01/16 07:58 AM	ON ROUTE FOR DELIVERY
06/01/16 09:49 AM	SHIPMENT DELIVERED

Package Details

Page 1 of 1

EXHIBIT 2A

GSO

GSO Home

Contact Us

1-800-377-5555

Shipping

Tracking

Services

Solutions

Resources

Support

About Us

Start Shipping Today

Track Shipment

Delivery Rates & Times

From Zip Code: To Zip Code:

Drop Box Locator

Zip Code:

View Transit Times

Zip Code: 

Shipment Tracking Results

Shipment Details

Ship To Name: CALIFORNIA DEPARTMENT OF TRANSPORTATION
 Ship To Location: SACRAMENTO, CALIFORNIA
 Delivery Status: DELIVERED Tracking Number: 532090900
 Ship Date: 6/1/2016 Reference:
 Delivery Date: 6/2/2016 Service: NPS
 Delivery Time: 9:44 AM Signed For By: L. Parra

Transit Times

Date/Time	Event
06/01/16 01:05 AM	ARRIVAL SCAN - DELIVERY SCHED FOR 06/02/2016
06/02/16 07:53 AM	ON ROUTE FOR DELIVERY
06/02/16 09:44 AM	SHIPMENT DELIVERED

Signature

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Chart 3

David A. Reader

From: Customer Service (302) 823-2263
 Sent: Thursday, June 17, 2016, 8:28 PM
 To: Mulissa Smith
 Subject: Shipping Delayed at Transportation, Tracking Number 80294000

Good Evening,

In regards to the shipping tracking confusion and proof of delivery you received 6/11 and 6/15.

I wanted to provide you with the information that was received while investigating this situation. We were advised by the distribution center where it was able to package and ship from your location and the reason for the shipping tracking numbers was either delivered originally on 6/11 at 3:00pm or 6/15. Once our correction, the shipment was placed in the daily package on 6/15 at 10:00am, we will not be able to ship on a daily basis. The shipment was back to our warehouse and we will be able to deliver the next day 6/17 and signed by the same recipient, Paula at 3:00pm.

I appreciate for the confusion and has caused but plus everything has been cleared up.

If you need further assistance feel free to contact us.

Thank you,



Aida Reyes
 Customer Service Representative
 Benton State Overnight
 Phone: 800-823-2263
 Fax: 800-823-2263
 Email: aida.reyes@bentonstate.com

06/15/2016 MON 8:54 PM

06/16/2016

Tracking Results

Page 1 of 1

GSO[GSO Home](#) [Contact Us](#) [1-800-323-5835](#)[Shipping](#) [Tracking](#) [Services](#) [Solutions](#) [Resources](#) [Support](#) [About Us](#)

Start Shipping Today

[Track Shipment](#)

Track Shipment

Delivery Rates & Times

From Zip Code:
To Zip Code:

Drop Box Locator

Zip Code:

View Transit Maps

Zip Code:


Shipment Search Results

Ship Date	Company Delivered To	Status
05/11/16	David Boudier - CALIFORNIA DEPARTMENT OF TRANSPORTATION	DELIVERED
05/01/16	David Boudier - CALIFORNIA DEPARTMENT OF TRANSPORTATION	DELIVERED

Page 1 of 1

View 1 - 2 of 2

[BACK TO TRACKING](#)

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07-02-15 11:25 AM

Exhibit 'B'

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

BIDDER'S BOND

DES-OE-0102.3 (REV 3/2006)

Contract No. 07-2849U4Bond No. CDGB104905

We Beador Construction Company, Inc.
26320 Lester Circle, Corona, CA 92883

as Principal, and

State National Insurance Company, Inc. - Administered by: Contractor Managing General Insurance Agency, Inc.

as Surety are bound unto the State of California, Department of Transportation, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the Obligee, for Widen Westbound off ramp to increase storage on State Highway in Los Angeles County in Los Angeles at Tampa Avenue off-ramp
(Copy here the exact description of work, including location, as it appears on the proposal)

for which bids are to be opened at 1727 30th Street, Bidders' Exchange, MS 26, Sacramento, CA 95816
(Insert place where bids will be opened)

on June 1st, 2016
(Insert date of bid opening)

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance (if specified in the contract) of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event a suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: May 26th, 2016

Correspondence or claims relating to this bond should be sent to the surety at the following address:

20335 Ventura Blvd., Suite 426Woodland Hills, CA 91364Beador Construction Company, Inc.

State National Insurance Company, Inc. Administered by:
Contractor Managing General Insurance Agency, Inc.

By

Attorney-in-Fact Stephanic Hope Shear**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of _____

On this _____ before me,

(refer to attachment)

Date

Here Insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SEAL)

Signature _____

Signature of Notary Public

06-02-2016 11:25 RCYB

Bond No: CDGB104905

State National Insurance Company, Inc. Administered by:

Premium: \$0.00**CONTRACTOR MANAGING GENERAL INSURANCE AGENCY, INC.****POWER OF ATTORNEY**

KNOW BY ALL THESE PRESENTS That STATE NATIONAL INSURANCE COMPANY, INC. a corporation organized and existing under the laws of the State of Texas, having its principal office in Bedford, Texas does hereby constitute and appoint

Stephanie Hope Shear

(individually, jointly, or severally)

its true and lawful agent and attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds in an amount not to exceed:
Three Million and 00/100 Dollars (\$3,000,000)

and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The acknowledgement and execution of bond by said Attorney-in-Fact, shall be as binding upon STATE NATIONAL INSURANCE COMPANY, INC. as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

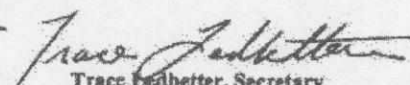
RESOLVED that the signature and date of any authorized officer and the seal of the Company may be affixed by facsimile or other electronic image to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature, date, and seal when so used shall have the same force and effect as though manually affixed.

This Power of Attorney shall remain in full force and effect until revoked by STATE NATIONAL INSURANCE COMPANY, INC. in a signed writing delivered to the foregoing Attorney-in-Fact.

IN WITNESS WHEREOF, STATE NATIONAL INSURANCE COMPANY, INC. has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 7th day of August, 2015.

STATE NATIONAL INSURANCE COMPANY, INC.


 Terry L. Ledbetter, President

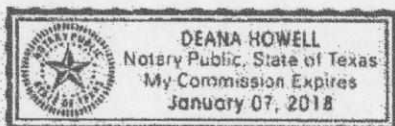
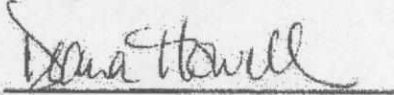

 Trace Ledbetter, Secretary

STATE OF TEXAS
 County of Tarrant

On this 7th day of August, 2015 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each of the herein described and authorized officer of STATE NATIONAL INSURANCE COMPANY, INC.; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of said Company.


IN WITNESS WHEREOF, I have hereunto set my hand at Bedford, Texas the day and year above written.

[Notary Stamp]



 Signature of Notary

I, the undersigned, Secretary of STATE NATIONAL INSURANCE COMPANY, INC., do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by STATE NATIONAL INSURANCE COMPANY, INC., which is still in full force and effect.

IN WITNESS WHEREOF, I have thereunto systematically set my hand and attested the seal of said Company this 26th day of May, 2016


 Trace Ledbetter, Secretary

06-02-16 11:25 RCYD

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of LOS ANGELES)On MAY 26 2016 before me, SHIRLEY GIGGLES, NOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

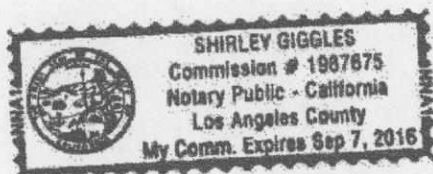
personally appeared STEPHANIE HOPE SHEAR

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Exhibit 'C'

NOTICE TO BIDDERS

Bids open Wednesday, June 1, 2016

Dated April 25, 2016

General work description: Widen Westbound off ramp to increase storage

The Department will receive sealed bids for CONSTRUCTION ON STATE HIGHWAY IN LOS ANGELES COUNTY IN LOS ANGELES AT TAMPA AVENUE OFF-RAMP.

District-County-Route-Post Mile: 07-LA-118-R4.8

Contract No. 07-2849U4

The Contractor must have either a Class A license or any combination of the following Class C licenses which constitutes a majority of the work: C-8, C-12.

The DVBE Contract goal is 3 percent.

Bids must be on a unit price basis.

Complete the work, excluding plant establishment work, within 145 working days.

Complete the work, including plant establishment work, within 325 working days.

Complete the plant establishment work within 180 working days.

The estimated cost of the project is \$1,340,000.

The Department will receive bids until 2:00 p.m. on the bid open date via Bid Express web site. Bids received after this time will not be accepted. For more information refer to the Electronic Bidding Guide at the Bidders' Exchange web site.

The Department will open and publicly read the bids at 1727 30th Street, Bidders' Exchange, MS 26, Sacramento, CA 95816 immediately after the specified closing time.

District office addresses are provided in the *Standard Specifications*.

Present bidders' inquiries to the Department and view the Department's responses at:

http://www.dot.ca.gov/hq/esc/oe/inquiry/bid_inquiries.php

Questions about alleged patent ambiguity of the plans, specifications, or estimate must be asked before bid opening. After bid opening, the Department does not consider these questions as bid protests.

Submit your bid with bidder's security equal to at least 10 percent of the bid.

Under Govt Code § 14835 et seq. and 2 CA Code of Regs § 1896 et seq., the Department gives preference to certified small businesses and non-small businesses who commit to 25 percent certified small business participation.

Under Pub Cont Code § 6107, the Department gives preference to a "California company," as defined, for bid comparison purposes over a nonresident contractor from any state that gives or requires a preference to be given to contractors from that state on its public entity construction contracts.

Prevailing wages are required on this Contract. The Director of the California Department of Industrial Relations determines the general prevailing wage rates. Obtain the wage rates at the DIR Web site, <http://www.dir.ca.gov>, or from the Department's Labor Compliance Office of the district in which the work is located.

Exhibit 'D'



Electronic Bidding Guide

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All Rights Reserved

5/5/2016

Items to be submitted with bid

Items that are required to be submitted with the bid, such as bid security, must be received by Office Engineer prior to the specified bid opening date and time. If these items are not received as specified, your bid may be deemed nonresponsive. Office Engineer's address is:

MS43
Office Engineer
Department of Transportation
1727 30th Street
Sacramento CA, 95816-7005

Bidder's security

Bid security must be received by Office Engineer prior to the specified bid opening date and time. Either submit an electronic bid bond with your bid, or submit a paper bid bond to Office Engineer prior to the specified bid opening date and time. Bidder's Security information can be found in the Special Provisions, Revised Standard Specifications and Standard Specifications section 2-1.34. Paper bid bond forms are included in the electronic bid file, as the last 2 pages of the print out of the electronic bid form. Bid Bond forms may also be downloaded from the Caltrans Office Engineer Electronic Bidding website at: http://www.dot.ca.gov/hq/esc/oe/electronic_bidding/electronic_bidding.html. Failure to submit bid security as specified may cause your bid to be deemed nonresponsive.

Electronic bid bonds may be submitted with your bid. Electronic bid bonds need to be verified through either Surety 2000 or SurePath. Electronic Bid Bond information is entered in the Bid Bond Data folder. Once bid bond data has been entered, select "Verify" to verify your electronic bid bond. For information regarding Surety2000, please visit <http://surety2000.com>. For information regarding SurePath, please visit <http://insurevision.com>

The screenshot shows the 'Expedite Bid' software interface. On the left, a file explorer pane displays the '22May3' folder containing various bid-related files, with 'Bid Bond Data' selected. The main window displays the 'BID BOND' form (FORM 674-Rev. 1-1-05). A message at the top right states 'BOND RECORD IS INCOMPLETE'. The form includes a checkbox for 'Submit paper bond as per certified check. Bond must be submitted by date and time of bid opening.' Below this are input fields for 'Bond ID', 'Surety Register Agency', 'Bond Pot', 'Max Bond Amount', and 'Surety State'. 'Verify' and 'Clear' buttons are located to the right of the 'Bond ID' field. A black arrow points from the 'Verify' button to the 'BID BOND' title.